

HOUSE BILL REPORT

SHB 1934

As Amended by the Senate

Title: An act relating to assault of a peace officer with a projectile stun gun.

Brief Description: Increasing penalties for assaulting a peace officer with a stun gun.

Sponsors: By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Lovick, Ahern, Dickerson, Santos, O'Brien, Williams, Simpson, Ericks and Chase).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/24/05 [DPS].

Floor Activity:

Passed House: 3/8/05, 91-6.

Senate Amended.

Passed Senate: 4/13/05, 44-0.

<h3>Brief Summary of Substitute Bill</h3>

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| <ul style="list-style-type: none">• Makes assault of a peace officer with a projectile stun gun assault in the third degree with a seriousness level equivalent to assault in the second degree. |
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HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives O'Brien, Chair; Ahern, Assistant Ranking Minority Member; Kagi, Kirby and Strow.

Minority Report: Without recommendation. Signed by 2 members: Representatives Darneille, Vice Chair; and Pearson, Ranking Minority Member.

Staff: Christopher Abbott (786-7119) and Yvonne Walker (786-7841).

Background:

Assault

In general, a person commits assault if he or she knowingly or intentionally batters another person, attempts to do so, or causes apprehension of an immediate assault. There are four degrees of assault. Simply assaulting another person is assault in the fourth degree (a gross misdemeanor), but may be elevated to assault in the third degree (a class C felony with a

seriousness level of III) if the person assaults any of several categories of people carrying out official duties including: law enforcement officers, firefighters, or transit workers.

The crimes of assault in the first and second degrees include seriously harmful conduct such as harming an unborn quick child, knowingly exposing another to HIV, or assaulting another with a deadly weapon. Assault in the second degree is a class B felony with a seriousness level of IV and assault in the first degree is a class A felony with a seriousness level of XII. Both offenses are strikes under Washington's "Three Strikes and You're Out" law where persistent offenders are sentenced to life in prison without the possibility of parole.

Courts sentence defendants under the Sentencing Reform Act based on the seriousness level of the offense and the offender's prior criminal history. For example, a first-time offender committing a level IV offense would receive a presumptive sentence range of three to nine months in jail, while the same offender committing a level XII offense would roughly receive a seven to 10 year sentence in prison.

Assault of a law enforcement or peace officer with a projectile stun gun constitutes third degree assault under most circumstances. If the stun gun was used under circumstances where it was readily capable of inflicting substantial bodily harm, a court could consider it a deadly weapon and its use may constitute second degree assault or a deadly weapon sentencing enhancement.

Summary of Substitute Bill:

The crime of assault in the third degree, a nonviolent class C felony, is expanded to include assault of a peace officer with a projectile stun gun. The seriousness level for assault with a stun gun is raised to a level IV, equivalent to the seriousness level of assault in the second degree.

A projectile stun gun is defined as an electronic device that projects wired probes attached to the device that emit an electrical charge and that is designed and primarily employed to incapacitate a person or animal.

EFFECT OF SENATE AMENDMENT(S):

The amendment establishes a projectile stun gun study committee to review the sale and use of projectile stun guns in Washington. The committee is composed of two Senators, two Representatives, a police chief, an elected sheriff, a representative from the Association of Washington Cities, a representative from the Washington State Association of Counties, and a representative from the Department of Health. The committee must evaluate the public safety issues created by projectile stun guns and make recommendations regarding whether they should be regulated. Legislative members of the study committee shall be reimbursed for travel expenses. Nonlegislative members, except those representing an employer or organization, are also entitled to be reimbursed for travel expenses.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill was inspired by the "taser demonstration" held last year by Chief Gil Kerlikowske, Seattle Police Department and Carl Mack, President of the Seattle/King County branch of the National Association for the Advancement of Colored People. The incapacitating effect of stun guns could endanger law enforcement and the state should act to prevent police officers from getting shocked by stun guns.

Testimony Against: None.

Persons Testifying: Representative Lovick, prime sponsor; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.